

CHAPTER NO. 77

SENATE BILL NO. 2615

By McNally

Substituted for: House Bill No. 2462

By Hackworth, Winningham

AN ACT to repeal Chapter 161 of the Private Acts of 1998; and any other acts amendatory thereto, and to provide for and establish the Office of County Law Director for Anderson County, Tennessee, to provide for the authority, powers and duties of said office, and to fix the compensation, therefore.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The Office of the County Law Director for Anderson County, Tennessee, is hereby created and established and shall exist at all times from and after September 1, 2006. The office will be managed and supervised exclusively by the county law director.

SECTION 2. The Legal Services Advisory Committee is hereby created to assist with the implementation and establishment of the Office of the County Law Director and the development of its policies and procedures. The county law director will meet with the advisory committee to update and notify the members of recent legal issues within county government at regular intervals to be determined by the advisory committee. The advisory committee shall monitor and provide oversight to the Office of the County Law Director and its director for the purpose of providing assistance when needed, evaluation concerns and monitoring for policy compliance purposes. The advisory committee will develop the job description and required qualifications for the law director and staff, and will also develop the selection process for the director's position. Upon two-thirds (2/3) majority vote the advisory committee will select and recommend a candidate for final confirmation by majority vote of the Anderson County legislative body. The voting members of the Legal Services Advisory Committee shall consist of the following elected officials of Anderson County:

1. County mayor,
 2. County clerk,
 3. Circuit court clerk,
 4. Highway superintendent,
 5. Assessor of property,
 6. Register of deeds,
 7. Sheriff,
 8. Trustee, and
9. Three (3) members from the county legislative body, as selected by their membership.

The Legal Services Advisory Committee shall select a chairperson and secretary from their membership body. The chairperson shall be responsible for conducting each meeting and the secretary shall record and maintain the official minutes of the committee. These officers shall serve for one-year terms.

Nothing contained within this act shall prohibit the Legal Services Advisory Committee from commencing with their duties under this act prior to September 1, 2006.

SECTION 3. The county law director shall devote his or her full-time legal employment to the duties of the Office of the County Law Director and shall not represent any other clients in the practice of law while holding office as the county law director.

SECTION 4. The law director shall be a licensed Tennessee attorney; graduate of an ABA accredited law school; duly licensed and admitted to practice law in the courts of the State of Tennessee, Federal District Court for the Eastern District of Tennessee, Sixth Circuit Court of Appeals and the United States Supreme Court; and a resident of Anderson County, or capable of becoming a resident within six (6) months of appointment to the position. The Legal Services Advisory Committee is authorized to promulgate and establish additional mandatory job requirements and preferred job requirements for the position of county law director and his or her additional staff members.

SECTION 5. The annual salary of the county law director is hereby established at a minimum floor of ninety percent (90%) of the annual salary paid to the Anderson County General Sessions Court judges and shall be payable out of the general funds of Anderson County in equal installments on the same dates as other general fund employees. The county law director and his or her staff shall be eligible for all employee benefits offered to other Anderson County employees including, but not limited to: all insurance coverage plans and policies; retirement plans; vacation, sick and personal leave; holiday pay; and salary adjustments as authorized and approved by the county legislative body.

SECTION 6. It shall be the duty of the county law director of Anderson County to take the oath of office prescribed for other county officials by the county clerk and appropriate to his or her office before entering upon the discharge of duties, and thereafter to transact all legal business of Anderson County.

SECTION 7. The duties of the county law director shall include, but are not limited to, the following:

- (a) Represent and render legal advice to the county legislative body and all county officials, including, elected and appointed department heads, employees and duly appointed boards, commissions and committees in matters relating to their official work and duties; and
- (b) Represent the county in all litigation, whether the county is suing or being sued in all state or federal courts, administrative boards and commissions; and
- (c) To meet with the county legislative body at all regular and special meetings; and
- (d) To act as the county's delinquent tax attorney upon selection as such by the county trustee and approval by the county mayor, as now provided by law, and without additional compensation. If the law director is selected as the county's delinquent tax attorney, all statutory fees allocated by general law to the county's delinquent tax attorney shall be deposited in the general fund of Anderson County and shall not be retained by the county law director; and
- (e) To draft, and/or approve, contracts, leases, deeds, or other legal instruments to which the county might be a party, or to review same when requested by county officials; and
- (f) To provide legal opinions on matters requested by county officials; and
- (g) To render opinions with regard to public finance obligations such as notes and bonds; and
- (h) To draft policies, procedures, rules and regulations upon the request of county officials, commissions, committees, boards or other governing bodies empowered to consider and/or adopt the same; and
- (i) To represent the county mayor in all fee petitions brought by the officials of the various fee offices; and
- (j) To monitor and evaluate any and all cases assigned to insurance counsel by the county's insurance carrier; and
- (k) To provide annual opinions to auditors regarding pending or threatened claims or litigation, in accordance with standards promulgated by the American Bar Association; and
- (l) In general, to act as general counsel for Anderson County and to perform all duties associated with that position.

SECTION 8. County officials should not employ any attorney other than the county law director to represent the county, or such official, unless additional or substitute counsel is approved by the county legislative body; otherwise, such official shall be personally responsible for the expense of the employment of such attorney. However, nothing contained herein shall prevent any county official, department or office of the county from employing its own counsel, if such official or entity has the power to employ its own counsel by general law and such employment complies with all budget requirements, finance laws and current budgetary appropriations. If a conflict in legal representation develops, the county law director may request that additional or substitute legal counsel be employed by written request to the county commission.

SECTION 9. The Anderson County Attorney's Office and the position of county attorney are hereby abolished and all private acts related to that position are hereby repealed. The county law director shall have the same power and authority, as conferred and mandated by state law, as Tennessee county attorneys have under general law; including, but not limited to, authority to file suit to abate nuisances, authority to remove unfaithful public officers, and the authority to enforce zoning and building code violations. The county law director shall otherwise act as the county attorney with all powers and duties granted to that position by state law. Nothing contained within this act shall be construed as having the effect of removing any incumbent from office or abridging the term of any official prior to the end of the term for which such official was elected.

SECTION 10. All necessary expenses incurred by the county law director in the discharge of his or her official duties shall be paid by Anderson County. All expenses shall be supported by receipted bills, receipts, invoices, and other documents and papers, and examined, audited and approved by the county mayor, or his designee, before payment, providing that they fall within the budget as established by the county legislative body.

SECTION 11. The county law director is hereby authorized to employ such staff members as may be necessary to fulfill his or her duties with the approval of the county legislative body and with salaries to be approved by the county legislative body. Staff members shall be payable out of the general funds of Anderson County in equal installments on the same dates as other general fund employees and shall serve at the pleasure of the county law director.

SECTION 12. The county legislative body shall provide suitable rooms and/or office space, with the necessary appurtenances and conveniences, for the Office of the County Law Director and staff. The county legislative body shall also furnish said office or offices with the appropriate equipment, utilities, furniture, computers and supplies as may be needed by such offices, including appropriate legal research materials and resources, Internet capabilities and a law library sufficient to carry out the duties of the county law director.

SECTION 13. The county legislative body may employ special counsel when, in its sole discretion, counsel other than, or in addition to, the law director is needed.

SECTION 14. The county law director may be terminated at any time with two-thirds (2/3) majority vote by the Legal Services Advisory Committee and two-thirds (2/3) subsequent approval by the county legislative body at their next regularly scheduled meeting. The county law director will serve at the will of the Legal Services Advisory Committee and the county legislative body.

SECTION 15. All laws, and portions of laws, in conflict with the provisions of this act, including, but not limited to, Chapter 161 of the Private Acts of 1998, and all amendatory and preceding acts thereof in conflict with the provisions of this act be, and the same are, hereby repealed as of September 1, 2006.


SECTION 16. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 17. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Anderson County. Its approval or nonapproval shall be proclaimed by the presiding officer of the Anderson County legislative body and certified to the secretary of state.

SECTION 18. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective September 1, 2006, if approved as provided in Section 17.

PASSED: February 15, 2006


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 16nd day of February 2006


PHIL BREDESEN, GOVERNOR